

**REMARKS**

**I. Status of Application**

**Claims 1-18, 20-25, and 27-29** are all the claims pending in the application. By this Amendment, Applicants amend claim 8 for clarity. No new subject matter has been entered.

**II. Summary of the Office Action**

**The Amendment filed May 19, 2009**, is objected to under 35 U.S.C. § 132(a).

**Claims 8-10** are rejected under 35 U.S.C. § 112, first paragraph.

**Claims 1-18, 20-22, 25, 28, and 29** are rejected under 35 U.S.C. § 103(a) as being unpatentable over Iwama (U.S. Patent No. 6,600,735) in view of Gous (U.S. Patent Application Publication No. 2002/0194316).

**Claims 23 and 24** are rejected under 35 U.S.C. § 103(a) as being unpatentable over Iwama, Gous, and Maher (U.S. Patent No. 5,381,403).

**Claim 27** is rejected under 35 U.S.C. § 103(a) as being unpatentable over Iwama, Gous, and Muirhead (U.S. Patent Application Publication No. 2003/0123446).

**III. Objection to the Amendment**

**The Amendment filed May 19, 2009**, is objected to under 35 U.S.C. § 132(a).

Applicants respectfully submit that the May 19 Amendments to claims 8-10 find support in the original specification. Please see discussion below regarding the rejections under § 112.

It is respectfully requested the objection be withdrawn.

**IV. Claim Rejections - 35 U.S.C. § 112**

**Claims 8-10** are rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement.

An analysis of whether a particular claim is supported by the disclosure in an application requires a determination of whether that disclosure, when filed, contained sufficient information

regarding the subject matter of the claims to enable one skilled in the art to make and use the claimed invention. The test of enablement is whether one reasonably skilled in the art could make or use the invention from the disclosure coupled with information known in the art without undue experimentation. (*See* MPEP § 2164.01).

Previously pending **claim 8** recites: “a measurement model of a respective domain and a behavior of various types of the local end-to-end data streams traversing the respective domain.”

The support for this recitation is found in the specification, for example, at page 7, lines 2-6: “this measuring appliance (M1) implements a measuring process based upon a measurement model which has been prepared from modeling of ... domain, A1 ... and the behavior of the various types of stream which transit within this domain (A1).”

However, to clarify claim 8 for the Examiner, Applicants amend claim 8 to recite “a measurement model of a respective domain and a behavior of various types of the local end-to-end data streams traversing the respective domain.”

Applicants respectfully submit that, even if the amendment to claim 8 is not entered, one skilled in art would have understood the concept of the measurement model recited in previously pending **claim 8** as being generated based on modeling the domain and behavior of the various types of the data streams traversing this domain, as described in the original disclosure. Accordingly, the original disclosure provides sufficient detail to enable one skilled in the art to practice the invention without undue experimentation.

**Claim 9** recites: “aggregation model which provides a link between the first data and standard deviations associated with the local measurements.”

The support for this recitation is found in the specification, for example, at page 12, line 34 – page 13, line 8: “The aggregation model is ... simple when the overall measurement concerns a parameter of the additive type, such as delay. ... However it can be complex when the overall measurement concerns a non-additive parameter, such as standard deviation... In particular, overall precision can be deduced for the local aggregations effected by the measuring appliances (Mi) within their respective domains (Ai) using a model of the standard-deviation

aggregation type (a model which makes the link between the overall measurement and the standard deviations associated with the local measurements).”

One, skilled in the art, would have discerned that the aggregation model of claim 9 may be of the standard-deviation aggregation type providing the link between the overall measurement (“first data”) and the standard deviations associated with the local measurements, as described in the original disclosure. Accordingly, the original disclosure provides sufficient detail to enable one skilled in the art to practice the invention without undue experimentation.

**Claim 10** recites “determine said first data from additional data related to a portion of the end-to-end data stream which is not subjected to the local measurements.”

The support for this recitation is found in the specification, for example, at page 13, lines 17-25: “The main calculation module ... take[s] account of the fact that a part located between two domains ... has not been subjected to local measurements. This can be the case ... when the measurements do not take account of the internal delay ... from a router serving as the coupling interface between two edge routers belonging to two adjacent domains. In order to incorporate these omitted parts into the calculation of the first data ..., the main calculation module ... uses additional data.”

One, skilled in the art, would have discerned that a portion of the end-to-end data stream, which is not subjected to the local measurements, extends between two domains, via routers, and that the additional data may include the delays induced by these routers, as described in the original disclosure. Accordingly, the original disclosure provides sufficient detail to enable one skilled in the art to practice the invention without undue experimentation.

Accordingly, it is respectfully requested this ground of rejection of **claims 8-10** be withdrawn.

**V. Claim Rejections - 35 U.S.C. § 103**

**A. Claims 1-18, 20-22, 25, 28, and 29** are rejected under 35 U.S.C. § 103(a) as being unpatentable over Iwama and Gous.

**Gous** describes a changeover sequence creation module 30 which constructs a collection of routing/admission data structures 36 and calculates a bandwidth/allocation matrix for each routing/admission data structure. (Paragraph 41). Each routing/admission structure defines connections for each node and a maximum bandwidth level attributed to each connection at each stage of changeover. (Paragraph 40, Fig. 3). The bandwidth/allocation matrix represents the total bandwidth allocated to each node. (Paragraph 42).

***1. Gous does not teach or suggest constitution of a specific measurement configuration***

In the Amendment filed May 19, 2009, Applicants submitted that Gous does not teach or suggest constitution of a specific measurement configuration. This is because Gous teaches constitution of a desired connection configuration in the network by changing the configuration information maintained at the nodes. Such configuration relates to configuring connections between the nodes. Gous does not teach or suggest constitution of the specific measurement configuration based on a specific measuring process of a corresponding node and overall measurement specifications. The bandwidth matrix of Gous is to allocate the maximum bandwidth usage of a node based on the available operational bandwidth. The bandwidth matrix of Gous is not the same as or an equivalent of a specific measurement configuration. Additionally, Gous does not teach or suggest creating its bandwidth matrix based on the measuring process associated with the node. Nor it is a function of the measuring process and overall measurement specifications.

In response, the Examiner states that Gous describes node, route, and structure data for the existing and desired configurations, as well as each node's source address and connection ID along with end-to-end route with respect to the individual data provided by each node. (See Office Action, page 23, paragraph 1).

The relevance of the Examiner's assertions to rebut Applicants arguments is not understood. Claim 1 recites "constitution of a specific measurement configuration in each measuring appliance as a function of at least a corresponding measuring process of a respective measuring appliance and overall measurement specifications." Claim 1 does not discuss existing and desired configurations of the nodes and routes.

Accordingly, Gous does not teach or suggest “the constitution of a specific measurement configuration in each measuring appliance as a function of at least a corresponding measuring process of a respective measuring appliance and overall measurement specifications,” as claimed.

**2. Gous does not teach or suggest delivering local measurements**

Applicants also submitted that Gous does not teach or suggest delivering the local measurements by the measuring appliances to the calculation means because Gous only describes delivering the instructions to the nodes and receiving acknowledgments of successful changeovers from the nodes.

In response, the Examiner asserts that “delivering the local measurements by the measuring appliances to the calculation means” is not recited in claim 1. (*See* Office Action, page 23, paragraph 2).

Applicants respectfully submit that the Examiner is incorrect because claim 1 recites “calculation means for determining first data ... from local measurements delivered by the said configured measuring appliances.” This recitation, in layman terms, clearly means “delivering the local measurements by the measuring appliances to the calculation means.”

Accordingly, Applicants respectfully request the Examiner consider Applicants’ arguments (repeated for the Examiner below) and provide a substantive rebuttal.

The Examiner relies on paragraph 35 of Gous to teach calculation means to deliver data representative of the parameter values of overall end-to-end data streams from local measurements delivered by the configured measuring appliances. (*See* Office Action, page 5, paragraph 3).

In this cited portion, Gous teaches the changeover signaling module 32 which converts the changeover sequence into a list of instructions that are communicated to the nodes. The changeover signaling module 32 receives acknowledgments from the nodes that the relevant nodes have successfully executed the received instructions. (Paragraph 35).

Therefore, in this portion, Gous describes delivering the instructions to the nodes and receiving acknowledgments of successful changeovers from the nodes. Gous does not teach or

suggest “calculation means for determining first data ... from local measurements delivered by the said configured measuring appliances” or, in other words, Gous does not teach or suggest delivering the local measurements by the measuring appliances to the calculation means. The acknowledgement message is not the same as or an equivalent of the local measurements.

It was also submitted that Gous does not teach or suggest determining, by the calculation means, the data representative of the parameter values of overall end-to-end data streams, from the local measurements.

In response, the Examiner asserts that the acknowledgement message is being sent to confirm the successful execution of the instructions sent to the nodes which are to be reconfigured. (*See* Office Action, page 23, paragraph 3 - page 24, paragraph 1).

However, Gous does not teach or suggest determining the data representative of the parameter values of overall end-to-end data streams, from the local measurements.

Iwama does not cure any deficiency of Gous.

Accordingly, neither Iwama, nor Gous, taken singularly or in combination, teaches or suggests at least “monitoring means for ordering constitution of a specific measurement configuration in each measuring appliance as a function of at least a corresponding measuring process of a respective measuring appliance and overall measurement specifications, and calculation means for determining first data representative of parameter values of overall end-to-end data streams from local measurements delivered by the said configured measuring appliances.” It is, therefore, respectfully submitted that **claim 1 and dependent claims 2-18, 20-22, 25, and 28** distinguish patentably and unobviously over Iwama and Gous.

**The Examiner is respectfully requested withdraw rejection of claim 1 or offer a substantive rebuttal.**

**Claim 29** recites features similar to, although not necessarily coextensive with, the features argued above with respect to claim 1. Therefore, arguments presented with respect to claim 1 are respectfully submitted to apply with equal force here. Therefore, it is respectfully submitted that **claim 29** distinguishes patentably and unobviously over Iwama and Gous, taken singularly or in combination.

***Dependent claims 13 and 28***

**Claim 13** recites “main calculation module is arranged to determine said first data from local measurements delivered by the said configured measuring appliances, the said local measurement specifications, at least one value aggregation model, and at least one of said measurement models.”

The Examiner asserts that the acknowledgment is being presented and includes information regarding source node and success status. (*See* Office Action, page 24, paragraph 2).

However, the acknowledgement is not the same or an equivalent of the local measurements. Additionally, the Examiner does not provide the support for the aggregation model and additional aggregation model.

**Accordingly, claim 13 is patentable over Iwama and Gous. The Examiner is respectfully requested withdraw rejection of claim 13 or offer a substantive rebuttal.**

**Claim 28** recites among other elements: “first, second and third measuring process differs from other measuring processes being executed and includes one of: a passive measuring process which collects information of each type of a data stream and of each packet of the data stream, an active measuring process which collects information on a periodic basis, or a measuring process based on a measurement model generated in advance for a corresponding network domain.”

In response to Applicants arguments, the Examiner asserts that element 1710 is considered a passive device. (*See* Office Action, page 25, paragraph 1).

However, Iwama only describes converting speech data by element 1710. Iwama does not describe that element 1710 performs passive measurements. Even assuming that the element 1710 performs a passive measuring process for the data collection, each measuring appliance of claim 28 includes a different measuring process selected from those recited. Iwama does not teach or suggest that a different one of “a passive measuring process which collects information of each type of a data stream and of each packet of the data stream, an active measuring process which collects information on a periodic basis, or a measuring process based on a measurement model generated in advance for a corresponding network domain” is performed in each

measuring appliance, as claimed. Nor does the Examiner point out the other devices which implement the claimed active measuring process and the measurement model.

Further, the Examiner does not provide a rebuttal of other submitted arguments. The Examiner states that collecting “the local measurements of a local data stream traversing an associated domain” is not recited in claim 28. Applicants respectfully submit that the Examiner is incorrect because claim 28 recites:

a first measuring appliance associated with a first network domain and executing a first measuring process to collect the local measurements of a first local end-to-end data stream which traverses the first network domain;

a second measuring appliance associated with a second network domain, ...which second measuring appliance executes a second measuring process to collect the local measurements of a second local end-to-end data stream which traverses the second network domain; and

a third measuring appliance associated with a third network domain, ... which third measuring appliance executes a third measuring process to collect the local measurements of a third local end-to-end data stream which traverses the third network domain...

Accordingly, Applicants repeat the previously submitted arguments below and request a substantive rebuttal.

The Examiner contends that Iwama’s elements 1705, 1709 and 1710 are the first, second and third measuring appliances. (Fig. 8). The Examiner further states that element 1705 enforces the bandwidth reservation, cancellation, change; element 1709 implements buffering and distribution of transmission/reception signals and controls the lines and bandwidths; and element 1710 converts speech packets. (Col. 13, lines 1-14, col. 12, lines 28-50). The Examiner also asserts that the gateways are disposed in different zones as seen in Fig. 1 of Iwama. (*See* Office Action, page 24, lines 3-5). Following the Examiner’s logic, therefore, each of the elements 1705, 1709, and 1710 must be disposed in the different zone. However, as described by Iwama, all of the elements 1705, 1709, and 1710 are disposed in one respective gateway, even if in multiple gateways, to make Iwama operational. (Fig. 8).

Moreover, as described by Iwama and stated by the Examiner, each element 1705, 1709, and 1710 performs various different functions within the gateway, e.g., each element performs



its own function. Generally, if the network element performs a function, it does not warrant a conclusion that this network element runs a measuring process to collect measurement parameters. Iwama does not teach or suggest that each of the elements 1705, 1709, and 1710 executes its own measuring process to collect the local measurements of a local end-to-end data stream traversing a corresponding domain.

**Accordingly, claim 28 is patentable over Iwama and Gous. The Examiner is respectfully requested withdraw rejection of claim 28 or offer a substantive rebuttal.**

**B. Claims 23 and 24** are rejected under 35 U.S.C. § 103(a) as being unpatentable over Iwama, Gous, and Maher.

**Claim 27** is rejected under 35 U.S.C. § 103(a) as being unpatentable over Iwama, Gous, and of Muirhead.

**Claims 23-24 and 27** depend on claim 1. Applicants have already demonstrated that Iwama and Gous do not meet all of the features of independent claim 1. Maher and Muirhead do not compensate for the above-identified deficiencies of these references. Together, the combined teachings of these references would not have (and could not have) led the artisan of ordinary skill to have achieved the subject matter of claim 1. Since **claims 23-24 and 27** depend on claim 1, they are patentable at least by virtue of their dependency.

### **CONCLUSION**

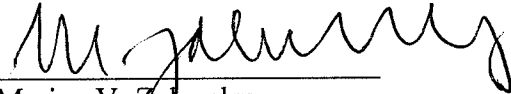
In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

**AMENDMENT UNDER 37 C.F.R. § 1.116**  
**U.S. Appln. No.: 10/825,243**

**Attorney Docket No.: Q80984**

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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